

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

Case No. 20-42760

GEORGE POSEY, SR.,

Chapter 13

Debtor.

Judge Thomas J. Tucker

**ORDER DENYING FEE APPLICATION,  
WITHOUT PREJUDICE, AS PREMATURE**

This case is before the Court on a fee application filed by the attorney for the Debtor on May 14, 2020, in a document entitled “Application for Award and Approval of Payment of Pre-Confirmation Attorney Fees as an Administrative Expense Through Chapter 13 Plan Pursuant to E.D. Mich. L.B.R. 9014-1 from 02/18/2020 Through 05/06/2020” (Docket # 59).

The Court will deny the fee application, without prejudice as stated below, as premature. It is premature because no Chapter 13 plan has been confirmed yet, and although the fee application says that “the approval of the fee application does not have an adverse impact on the Chapter 13 plan as debtor will not oppose a motion to dismiss his case,” (fee application at ¶ 5), the case has not yet been dismissed or converted, and there is no motion to dismiss pending. Instead, the case is currently scheduled for an adjourned confirmation hearing to be held on August 20, 2020.

The fee application does not demonstrate good cause for the Court to allow fees for the Debtor’s counsel at this time, when no Chapter 13 plan has been confirmed yet. *See generally* 11 U.S.C. § 1326(a)(2). Even if the Court granted a fee application for the Debtor’s counsel now, the Chapter 13 Trustee could not disburse any money to the Debtor’s counsel from funds on hand in payment of such fees at this time, under § 1326(a)(2).

Accordingly,

IT IS ORDERED that the fee application (Docket # 59) is denied.

IT IS FURTHER ORDERED that this Order is without prejudice to the right of the Debtor's counsel to file a new fee application, after one of the following events has occurred in this case: (1) a plan has been confirmed; (2) the case has been converted to Chapter 7; or (3) the case has been dismissed.

**Signed on June 4, 2020**



/s/ **Thomas J. Tucker**

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**Thomas J. Tucker**  
**United States Bankruptcy Judge**